

**1. General**

The acceptance of the Company's tender ("the Tender") includes the acceptance of the following terms and conditions. No terms or conditions stipulated or referred to by the Purchaser in any form whatsoever shall in any respect vary or add to these terms and conditions unless the Company agrees in writing to any such variation or addition. The term "The Company" shall mean Lödige United Kingdom Limited and the term "The Customer" shall mean any person, firm or company seeking to enter into an agreement with the Company for the supply of goods or services.

**2. Validity**

Unless previously withdrawn by the Company the Tender is open for acceptance within the period stated therein or, when no such period is so stated, within 30 days after the date of the Tender.

**3. Drawings**

Any and all specifications, drawings and particulars submitted with the Tender are approximate only. Any and all descriptions, illustrations and other material of whatever nature contained in any catalogues, price lists and other advertising material produced by the Company are intended merely to present a general description of the goods specified, none of which shall form part of the contract between the Purchaser and the Company.

The Company shall supply to the Purchaser two copies of general arrangements drawings giving details of builders work required to be undertaken in preparation for the works to be undertaken by this contract ("the Works"). If the Company is required by the Purchaser to supply further drawings or revisions the Company reserves the right to apply an extra charge in respect of the provision of such drawings or revisions.

**4. Overtime/daywork**

4.1 Unless specifically stated to the contrary in writing by the Company, the Tender is based on the assumption that the Works will be carried out during the Companies normal hours. The Company shall be entitled to receive additional remuneration for any work which it has been agreed between the parties will be undertaken outside such periods, in an amount equal to the additional costs and overhead charges incurred by the Company in undertaking such work plus an amount of profit.

4.2 Any work carried out on a daywork basis shall unless otherwise stated in this Contract in writing or agreed between the parties be charged by the Company in accordance with those rates published by the Lift and Escalator Industry Association which are applicable at the time at which such work is undertaken.

**5. Delivery and completion**

5.1 Any times stated by the Company for completion by the Company of the Works shall run from the date of receipt of a written order from the Purchaser or, if later, from the receipt of all information, drawings, licences, permits and approvals necessary to enable the Company to proceed with the Works. All such times are to be treated as estimates only and, unless otherwise agreed in writing by the Company shall not involve any obligation for the Company to complete the Works by a specified date. The Purchaser shall at its own expense before the estimated date of commencement of any part of the Works ensure that the site is ready in all respects for the Works to commence and, without prejudice to the generality of the Purchaser's obligations in this respect, that all the facilities and items listed in the Schedule to this Contract have been or will be, provided by the Purchaser as and when required by the Company in order to enable the Works to proceed.

**6. Delay in Delivery or completion**

6.1 If due to circumstances outside the control of the Company, the Purchaser cannot accept delivery of goods comprised in the Works upon the agreed delivery date for such goods, or is otherwise unable to grant access to the Company to the site for the purpose of commencement of the Works, the Company reserves the right to recover any costs incurred by the delay and/or to continue to manufacture goods and deliver them to storage in accordance with clause 8.

6.2 The Company shall not be liable for any delay or for the consequences of any delay in the production or delivery of any of the goods comprised in the Works or in the completion of the Works in circumstances where an estimated time for completion of the Works has been given by the Company.

6.3 In circumstances where the Company has agreed in writing a time for completion of the Works in accordance with clause 5, it shall not be liable for any delay or any consequences of delay as referred to in clause 6.2 if such delay is due to fire, strike, lockout, dispute with workmen, flood, accident, delay in transport, shortage of fuel, default of any sub-contractor, inability to obtain material and/or labour, embargo, act or demand or requirement of any government or any government department or local authority, or as a consequence of war or of hostilities (whether war be declared or not) or any other cause whatsoever beyond the reasonable control of the Company. If any such delay occurs then (unless the cause thereof shall frustrate or render impossible or illegal the performance of the contract or shall otherwise discharge the parties from their obligations under the Contract), the period within which the Company has stated that its obligations under the Contract shall be completed shall be extended by a period (not limited to the length of such delay) that the Company may reasonably require to complete the performance of its obligations.

**7. Delivery of goods**

7.1 Unless stated to the contrary in the Tender the Company shall deliver goods comprised in the Works to the site.

7.2 The Company shall have no liability to the Purchaser in respect of any loss or damage to any goods comprised in the Works whilst in transit nor in respect of any shortage in the quantity of such goods delivered unless, in the case of damage in transit or shortage in quantities, a notice in writing is given by the Purchaser to the carrier of such goods within three days and to the Company within seven days of the receipt of the goods, followed by a complete written claim to the carrier and the Company within fourteen days of such receipt. In the case of loss of goods, the Company shall have no such liability unless a written notice and a complete written claim is provided to the carrier of such goods and to the Company within twenty-one days of the date of consignment. Where goods are accepted from a carrier without being checked, the delivery book of the carrier concerned must be signed "not examined".

**8. Storage**

8.1 Where the Purchaser is unable to accept delivery of all or any of the goods comprised in the Works within seven days after notification that they are ready for despatch it shall arrange and pay for suitable storage, maintenance and insurance of such goods. If the Company has sufficient and appropriate facilities for those purposes it will store such goods at the Purchaser's risk and expense.

**9. Passing of risk**

9.1 All goods comprised in the Works or any part shall be at the sole risk of the Purchaser from the time that they are delivered on site whether or not accepted by the Purchaser. In the event that the Purchaser notifies the Company that it is unable to accept delivery of all or any part of the goods within seven days after notification from the Company that they are ready for despatch risk in such goods shall pass to the Purchaser at the expiry of such seven day period.

9.2 In the event that risk in the goods has passed to the Purchaser in accordance with the terms of the contract then notwithstanding any other of its provisions such risk shall not in any circumstances be passed back to the Company.

**10. Terms of payment**

10.1 All quotations made by the Company are strictly net cash unless otherwise stated and are exclusive of Value Added Tax or any similar or other taxes, levies or duties. Unless otherwise agreed, the Purchaser shall pay the Company within 30 days of the date of an application for payment being made by the Company in accordance with the following provisions.

10.2 Interest shall be paid on all overdue amounts from the date payment was due until actually made at the rate of eight per cent above the Bank of England Base rate operating during the period of delay in payment by the Purchaser.

10.3 Payment shall be made to the Company in the following proportions:-

a. Payment of 25% of the contract value shall be made at the time at which an order is placed by the Purchaser.  
b. A further 65% of the contract value shall be paid on receipt by the Purchaser of notice that the goods comprised in the Works are being delivered to site 4 weeks later and no such goods shall be despatched until such payment is received.

c. The final 10% of the contract value, shall be paid on completion of installation.

10.4 In circumstances where more than one lift is to be provided by the Company, the terms of payment set out above shall apply in respect of the provision of each lift.

10.5 In the event that the Purchaser does not accept delivery of any goods comprised in the Works or allow commencement or completion of the Works in circumstances where the Company is ready to deliver such goods and/or commence or complete the Works, payment will be made as if delivery had been made, or within a reasonable time after the Works would have commenced or completed as the case may be.

10.6 All goods supplied by the Company shall remain its property until full payment of the contract price. The Company shall be entitled, in the event that the Purchaser fails to make payment to the Company, and without prejudice to any other remedy which the Company may have at law or otherwise to enter the premises where such goods are held and remove them. The Purchaser shall not use or in any way dispose of the goods supplied by the Company in respect of which payment has not been received in full by the Company.

10.7 If payment is not made in accordance with these terms, the Company shall be entitled to suspend work immediately and in such circumstances the times estimated by the Company for completion of the Works shall be extended by an amount not limited to the period of such suspension.

10.8 Notwithstanding any other provision of the contract the Company may in its discretion require full payment with order or against pro-forma invoices.

10.9 In the event that the Company has exercised its right under Section 112 of the Housing Grants, Construction and Regeneration Act 1996 to suspend performance of his obligations under the contract, the Purchaser shall reimburse the Company in respect of any loss and/or expense incurred by him during the period of the suspension, including the cost of re-mobilisation on the lifting of the suspension.

**11. Price variation**

11.1 The prices quoted are based on materials and wage rates applicable at the date of the Tender and shall be subject to adjustment in accordance with the Formula and Indices for Contract Price Adjustment (current edition), compiled by the Lift and Escalator Industry Association "the Formula". Alternatively, if specified in the Tender, firm

prices are quoted on the understanding that the Company reserves the right to adjust the prices in accordance with the Formula.

11.2 All prices shall be subject to further variation in respect of any additional costs arising by virtue of any statute, regulations or orders issued by any Government Department or other duly constituted authority.

11.3 Any adjustment or variation made in accordance with clauses 11.1 and 11.2 respectively may be invoiced immediately once the amount of such adjustment and/or variation has been ascertained and shall be payable by the Purchaser forthwith on receipt by it of a notice from the Company outlining the amount of the adjustment or variation as the case may be.

**12. Imported Materials**

12.1 The price stated in the Tender, where appropriate, allows for the cost of importing materials based upon the rates of exchange, tax or duty prevailing at the date of the Tender. In the event of any adjustment in such rates, between the date of Tender and 14 days after receipt of sufficient payment to settle the overseas debt the Company reserves the right to make an appropriate adjustment to the Contract price.

**13. Guarantee**

13.1 The Company hereby warrants the material and workmanship supplied by it under the contract and will make good any defects arising (within one year form the date of completion of installation of each lift) due to faulty design, workmanship or materials carried out or supplied by the Company which is not due to ordinary wear and tear or to improper use or care by any party other than the Company.

13.2 The liability of the Company under this clause shall constitute its sole liability (save in respect of death or personal injury caused by the negligence of the Company) whether in contract, tort (including negligence) or otherwise in respect of any defects in the goods and services supplied under the contract and any warranties or conditions implied by law are hereby expressly excluded.

13.3 The guarantee contained in this clause 13 shall only apply if, at completion of the Works all lifts are serviced by the Company or by a competent person approved by it and (if the latter) in accordance with the terms of a servicing contract approved by the Company.

13.4 It is a condition to the enforceability of this guarantee that the Purchaser shall ensure that all accessible parts of the lifts supplied are kept clean, and that no person modifies, adjusts or interferes with any equipment without the Company's prior approval.

13.5 The Purchaser shall not assign the benefit of the guarantee.

**14. General liability**

14.1 The Purchaser shall not use or permit to be used the whole or any part of the goods supplied under this Contract before they have been completed, installed, tested and handed over by the Company. If such goods or any part of them are so used the Purchaser shall indemnify the Company against any liability that may be incurred by the Company to any person whether arising directly or indirectly from such use.

14.2 Save in respect of death or personal injury caused by the negligence of the Company it shall not, either before or after the handing over to the Purchaser of the Works, be liable for any loss and/or damage caused by or arising from the use of any goods comprised in the Works other than in accordance with instructions given by the Company from time to time as to its operation and maintenance, and shall not, in any event, be liable for any loss arising out of any cause beyond its reasonable control.

14.3 Notwithstanding any other provision of the contract, the Company shall not be liable to the Purchaser by way of indemnity or by reason of any breach of the contract or of statutory duty or by reason of tort (including but not limited to negligence), for loss of profit, loss of use, loss of revenue, loss of production, loss of productivity or disruption, wasted expenditure, increased costs and expense, loss of contracts and all special, indirect and consequential losses or damage which may be suffered by the Purchaser.

**15. Installation**

15.1 The pit and motor room shall be handed over properly completed and weather tight to the Company's installers.

15.2 Any extra cost incurred, due to a suspension of the Works, as a result of instructions received from the Purchaser, the lack of such instructions, interruptions, delays, overtime, unusual working hours, and additional work or variations or work for which the Company is not responsible or mistakes or any other causes outside the Company's control, shall be added to the contract price and paid by the Purchaser in accordance with clause 10. Any such charges shall be based upon the Company's normal rates and shall include outworking and lodging allowances where appropriate.

15.3 The price stated in the Tender is based on the payment of nationally agreed rates for outworking allowances and lodging. If suitable lodgings are not available at these rates due to circumstances beyond the Company's control the difference in cost including any extra fares incurred shall be added to the contract price and paid by the Purchaser.

**16. Testing, acceptance and completion**

16.1 The Works shall be considered complete on notification by the Company to the Purchaser that its tests have been successfully completed.

16.2 If any lift supplied under the Contract is not taken into normal service at this time it shall be shut down, and the Company shall be entitled to additional payment at current rates from the Purchaser for such servicing, cleaning, lubrication or other work as may be necessary to ensure its satisfactory condition when taken into normal service by the Purchaser.

**17. Prevention or frustration**

17.1 If the contract becomes impossible to perform or is otherwise frustrated the Purchaser shall be liable to pay the Company all costs, expenses, overheads and any loss of profit which the Company, his suppliers or sub-contractors incur as a result of such frustration or impossibility of performance.

17.2 Any pre-payment which may have been made to the Company under the contract shall be applied towards satisfaction of such sum as may become due to him under the foregoing provisions, and the excess (if any) of such pre-payments will be refunded to the Purchaser.

**18. Patents**

18.1 The Purchaser warrants that any design or instruction furnished or given by him shall not cause the Company to infringe any letter patent, registered design or trademark in the execution of the Works.

**19. Determination**

19.1 The Company shall be entitled to determine its employment under the Contract in circumstances where:  
a. the Purchaser is in material or continuing breach of any of its obligations under the Contract and fails to remedy such breach within (10) days of the receipt of written notification from the Company of such breach; and  
b. the Purchaser makes a voluntary arrangement with its creditors or becomes subject to an administration order or goes into liquidation or an encumbrancer takes possession of, or a receiver or manager is appointed over, all or any property or assets of the Purchaser or the Purchaser ceases or threatens to cease to carry on business or the Purchaser generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.

**20. Law applicable**

20.1 This contract shall be governed by and construed in accordance with English law.

**Schedule**

The tender excludes the following items which, unless otherwise agreed in writing, it shall be the responsibility of the Purchaser to provide in accordance with the Company's requirements:-

- 1) Calculations with regard to the building, the obtaining of any necessary permissions and the issue of any relevant notices.
- 2) Builder's work such as forming lift well, pit and machine room which shall be dry and free from dust with the necessary access according to local bye-laws, also, cutting away and making good and site painting. All work to be in compliance with British Standards, Codes of Practice, local bye-laws and any legislative requirements.
- 3) Machine room floor including any reinforcement necessary for load bearing.
- 4) Tested lifting beams where necessary marked with safe working load and any primary or secondary steel work.
- 5) Any necessary drainage, tanking, lining, sealing or reinforcement of the pit.
- 6) When required dividing beams for multiple wells and inter-well screens.
- 7) A bore hole and the provision of a liner for the jack.
- 8) Guarding of openings and other measures necessary to ensure the safety and convenience of the occupants and other personnel within the building. The protection of shafts, surfaces, furnishings and access routes.
- 9) Scaffolding, planks and ladders within or adjacent to the lift shaft(s) to the Company's requirements.
- 10) Off-loading and storage of materials and tools in a suitable locked, dry heated and illuminated storage space protected from theft and damage.
- 11) Working lights and temporary and permanent electricity supplies to the Company's requirements including the re-positioning and up-grading, where necessary, of mains switches and supply cables.
- 12) The supply or installation of electrical wiring external to the lift well or machine room.
- 13) Mess rooms, sanitary accommodation and welfare facilities.
- 14) Permanent ventilation or other arrangements to ensure a machine room temperature is maintained as per requirement.
- 15) Provision for reinforcement of pavements and floors, making suitable access and trucking, craneage and unskilled labour for handling equipment to its final position on site.
- 16) Cleaning, renewal or replacement of lift equipment damaged by building works.
- 17) Extra costs due to surveyor's fees or special requirements of government departments, local authorities, insurance companies, consultants other bodies or officials.
- 18) Provision of safe and adequate access.
- 19) Provision for taking on any of the roles specified in the C.D.M Regulations other than that of "Contractor".